

Appendix M:

**CEC Application Attachment D
and City of Chula Vista Resolution No. 1699**

CEC Attachment D

ATTACHMENT D
California Energy Commission
STANDARD CONDITIONS OF CERTIFICATION
EMERGENCY PERMITTING PROJECTS

GENERAL CONDITIONS INCLUDING COMPLIANCE MONITORING AND CLOSURE PLAN

INTRODUCTION

General conditions (and the Compliance Plan) have been established as required by Public Resources Code section 25532. The plan provides a means for assuring that the facility is constructed, operated and closed in accordance with applicable environmental and public health and safety laws, ordinances, regulations, and standards, and with conditions of certification as approved by the California Energy Commission (Energy Commission).

The Compliance Plan is comprised of general conditions and technical (environmental and engineering) conditions as follows:

General conditions that set forth the duties and responsibilities of the Compliance Project Manager (CPM), the project owner, and delegate agencies; the requirements for handling confidential information and maintaining the compliance record; procedures for settling disputes and making post-certification changes; administrative procedures to verify the compliance status; and requirements for facility closure plans.

Specific conditions for each technical area contain the measures required to mitigate potential adverse impacts associated with construction, operation and closure to an insignificant level. Specific conditions may also include a verification provision that describes the method of verifying that the condition has been satisfied.

DEFINITIONS

To ensure consistency, continuity and efficiency, the following terms, as defined, apply to all technical areas, including Conditions of Certification:

SITE MOBILIZATION:

Moving trailers and related equipment onto the site, usually accompanied by minor ground disturbance, grading for the trailers and limited vehicle parking, trenching for utilities, installing utilities, grading for an access corridor, and other related activities. Ground disturbance, grading, etc. for site mobilization are limited to the portion of the site necessary for placing the trailers and providing access and parking for the occupants. Site mobilization is for temporary facilities and is therefore not considered construction.

GROUND DISTURBANCE:

Onsite activity that results in the removal of soil or vegetation, boring, trenching or alteration of the site surface. This does not include driving or parking a passenger vehicle, pickup truck, or other light vehicle, or walking on the site.

GRADING:

Onsite activity conducted with earth-moving equipment that results in alteration of the topographical features of the site such as leveling, removal of hills or high spots, or moving of soil from one area to another.

CONSTRUCTION:

[From Public Resources Code section 25105.] Onsite work to install permanent equipment or structures for any facility. Construction does **not** include the following:

- a) The installation of environmental monitoring equipment.
- b) A soil or geological investigation.
- c) A topographical survey.
- d) Any other study or investigation to determine the environmental acceptability or feasibility of the use of the site for any particular facility.
- e) Any work to provide access to the site for any of the purposes specified in a, b, c, or d.

COMPLIANCE PROJECT MANAGER (CPM) RESPONSIBILITIES

A CPM will oversee the compliance monitoring and shall be responsible for:

- 1. ensuring that the design, construction, operation, and closure of the project facilities is in compliance with the terms and conditions of the Commission Decision;
- 2. resolving complaints;
- 3. processing post-certification changes to the conditions of certification, project description, and ownership or operational control;
- 4. documenting and tracking compliance filings; and,
- 5. Ensuring that the compliance files are maintained and accessible.

The CPM is the contact person for the Energy Commission and will consult with appropriate responsible agencies and the Energy Commission when handling disputes, complaints and amendments.

The Commission has established a toll free compliance telephone number of **1-800-858-0784** for the public to contact the Commission about power plant construction or operation-related questions, complaints or concerns.

PRE-CONSTRUCTION AND PRE-OPERATION COMPLIANCE MEETING

The CPM may schedule pre-construction and pre-operation compliance meetings prior to the projected start-dates of construction, plant operation, or both. The purpose of these meetings will be to assemble both the Energy Commission's and the project owner's technical staff to review the status of all pre-construction or pre-operation requirements

contained in the Energy Commission's conditions of certification to confirm that they have been met, or if they have not been met, to ensure that the proper action is taken.

ENERGY COMMISSION RECORD

The Energy Commission shall maintain as a public record, in either the Compliance file or Docket file, for the life of the project (or other period as required):

1. All documents demonstrating compliance with any legal requirements relating to the construction and operation of the facility;
2. All complaints of noncompliance filed with the Energy Commission; and,
3. All petitions for project modifications and the resulting staff or Energy Commission action taken.

PROJECT OWNER RESPONSIBILITIES

It is the responsibility of the project owner to ensure that the general compliance conditions and the conditions of certification are satisfied. The general compliance conditions regarding post-certification changes specify measures that the project owner must take when requesting changes in the project design, compliance conditions, or ownership. Failure to comply with any of the conditions of certification or the general compliance conditions may result in reopening of the case and revocation of Energy Commission certification, an administrative fine, or other action as appropriate.

ACCESS

The CPM, responsible Energy Commission staff, and delegate agencies or consultants, shall be guaranteed and granted unrestricted access to the power plant site, related facilities, project-related staff, and the records maintained on site, for the purpose of conducting audits, surveys, inspections, or general site visits. Although the CPM will normally schedule site visits on dates and times agreeable to the project owner, the CPM reserves the right to make unannounced visits at any time.

COMPLIANCE RECORD

The project owner shall maintain project files on-site or at an alternative site approved by the CPM, for the life of the project. The files shall contain copies of all "as-built" drawings, all documents submitted as verification for conditions, and all other project-related documents for the life of the project, unless a lesser period is specified by the conditions of certification.

Energy Commission staff and delegate agencies shall, upon request to the project owner, be given unrestricted access to the files.

COMPLIANCE VERIFICATIONS

Condition of certification may have appropriate means of "verification". The verification describes the Energy Commission's procedure(s) to ensure post-certification compliance with adopted conditions. The verification procedures, unlike the conditions, may be modified, as necessary by the CPM, without full Energy Commission approval.

Verification of compliance with the conditions of certification can be accomplished by:

1. reporting on the work done and providing the pertinent documentation in monthly and/or annual compliance reports filed by the project owner or authorized agent as required by the specific conditions of certification;
2. appropriate letters from delegate agencies verifying compliance;
3. Energy Commission staff audits of project records; and/or
4. Energy Commission staff inspections of mitigation and/or other evidence of mitigation.

A cover letter from the project owner or authorized agent is required for all compliance submittals and correspondence pertaining to compliance matters. **The cover letter subject line shall identify the involved condition(s) of certification by condition number and include a brief description of the subject of the submittal.**

All submittals shall be addressed as follows:

**Compliance Project Manager
California Energy Commission
1516 Ninth Street (MS-2000)
Sacramento, CA 95814**

CONFIDENTIAL INFORMATION

Any information, which the project owner deems confidential shall be submitted to the Energy Commission's Docket with an application for confidentiality pursuant to Title 20, California Code of Regulations, section 2505(a). Any information, which is determined to be confidential, shall be kept confidential as provided for in Title 20, California Code of Regulations, section 2501 et. seq.

REPORTING OF COMPLAINTS, NOTICES, AND CITATIONS

Prior to the start of construction, the project owner must send a letter to property owners living within 500 feet of the project notifying them of a telephone number to contact project representatives with questions, complaints or concerns. If the telephone is not staffed 24 hours per day, it shall include automatic answering, with date and time stamp recording. The telephone number shall be posted at the project site and easily visible to passersby during construction and operation.

The project owner shall report and provide copies of all complaint forms, notices of violation, notices of fines, official warnings, and citations, within 10 days of receipt, to the CPM.

GENERAL CONDITIONS FOR FACILITY CLOSURE

In order to ensure that a planned facility closure does not create adverse impacts, plant closure must be consistent with all applicable laws, ordinances, regulations, standards (LORS), and local/regional plans in existence at the time of closure. To ensure adequate review of a planned project closure, the project owner shall submit a proposed facility closure plan to the Energy Commission for review and approval at least three months prior to commencement of closure activities (or other period of time agreed to by the CPM).

DELEGATE AGENCIES

To the extent permitted by law, the Energy Commission may delegate authority for compliance verification and enforcement to various state and local agencies that have expertise in subject areas where specific requirements have been established as a condition of certification. If a delegate agency does not participate in this program, the Energy Commission staff will establish an alternative method of verification and enforcement. Energy Commission staff reserves the right to independently verify compliance.

In performing construction and operation monitoring of the project, the Energy Commission staff acts as, and has the authority of, the Chief Building Official (CBO). The Commission staff retains this authority when delegating to a local CBO. Delegation of authority for compliance verification includes the authority for enforcing codes, the responsibility for code interpretation where required, and the authority to use discretion, as necessary, in implementing the various codes and standards.

ENFORCEMENT

The Energy Commission's legal authority to enforce the terms and conditions of its Decision is specified in Public Resources Code sections 25534 and 25900. The Energy Commission may amend or revoke the certification for any facility, and may impose a civil penalty for any significant failure to comply with the terms or conditions of the Commission Decision. The specific action and amount of any fines the Commission may impose would take into account the specific circumstances of the incident(s). This would include such factors as the previous compliance history, whether the cause of the incident involves willful disregard of LORS, inadvertence, unforeseeable events, and other factors the Commission may consider.

Moreover, to ensure compliance with the terms and conditions of certification and applicable laws, ordinances, regulations, and standards, delegate agencies are authorized to take any action allowed by law in accordance with their statutory authority, regulations, and administrative procedures.

NONCOMPLIANCE COMPLAINT PROCEDURES

Any person or agency may file a complaint alleging noncompliance with the conditions of certification. Such a complaint will be subject to review by the Energy Commission pursuant to Title 20, California Code of Regulations, section 1230 et. seq., but in many instances the noncompliance can be resolved by using the informal dispute resolution process. Both the informal and formal complaint procedures, as described in current State law and regulations, are described below. They shall be followed unless superseded by current law or regulations.

INFORMAL DISPUTE RESOLUTION PROCEDURE

The following procedure is designed to informally resolve disputes concerning interpretation of compliance with the requirements of this compliance plan. The project owner, the Energy Commission, or any other party, including members of the public, may initiate this procedure for resolving a dispute. Disputes may pertain to actions or decisions made by any party including the Energy Commission's delegate agents.

This procedure may precede the more formal complaint and investigation procedure specified in Title 20, California Code of Regulations, section 1230 et. seq., but is not intended to be a substitute for, or prerequisite to it. This informal procedure may not be used to change the terms and conditions of certification as approved by the Energy Commission, although the agreed upon resolution may result in a project owner proposing an amendment.

The procedure encourages all parties involved in a dispute to discuss the matter and to reach an agreement resolving the dispute. If a dispute cannot be resolved, then the matter must be referred to the full Energy Commission for consideration via the complaint and investigation process. The procedure for informal dispute resolution is as follows:

REQUEST FOR INFORMAL INVESTIGATION

Any individual, group, or agency may request the Energy Commission to conduct an informal investigation of alleged noncompliance with the Energy Commission's terms and conditions of certification. All requests for informal investigations shall be made to the designated CPM.

Upon receipt of a request for informal investigation, the CPM shall promptly notify the project owner of the allegation by telephone and letter. All known and relevant information of the alleged noncompliance shall be provided to the project owner and to the Energy Commission staff. The CPM will evaluate the request and the information to determine if further investigation is necessary. If the CPM finds that further investigation is necessary, the project owner will be asked to promptly investigate the matter and within seven (7) working days of the CPM's request, provide a written report of the results of the investigation, including corrective measures proposed or undertaken, to the CPM. Depending on the urgency of the noncompliance matter, the CPM may conduct a site visit and/or request the project owner to provide an initial report, within forty-eight (48) hours, followed by a written report filed within seven (7) days.

REQUEST FOR INFORMAL MEETING

In the event that either the party requesting an investigation or the Energy Commission staff is not satisfied with the project owner's report, investigation of the event, or corrective measures undertaken, either party may submit a written request to the CPM for a meeting with the project owner. Such request shall be made within fourteen (14) days of the project owner's filing of its written report. Upon receipt of such a request, the CPM shall:

1. Immediately schedule a meeting with the requesting party and the project owner, to be held at a mutually convenient time and place and secure the attendance of appropriate Energy Commission staff and staff of any other agency with expertise in the subject area of concern as necessary;
2. Conduct such meeting in an informal and objective manner; and,
3. After the conclusion of such a meeting, promptly prepare and distribute copies to all in attendance and to the project file, a summary memorandum which fairly and accurately identifies the positions of all parties and any conclusions reached.

FORMAL DISPUTE RESOLUTION PROCEDURE-COMPLAINTS AND INVESTIGATIONS

If either the project owner, Energy Commission staff, or the party requesting an investigation is not satisfied with the results of the informal dispute resolution process, such party may file a complaint or a request for an investigation with the Energy Commission's General Counsel. Disputes may pertain to actions or decisions made by any party including the Energy Commission's delegate agents. Requirements for complaint filings and a description of how complaints are processed are in Title 20, California Code of Regulations, section 1230 et. seq.

The Chairman, upon receipt of a written request stating the basis of the dispute, may grant a hearing on the matter, consistent with the requirements of noticing provisions. The Commission shall have the authority to consider all relevant facts involved and make any appropriate orders consistent with its jurisdiction (Title 20, California Code of Regulations, sections 1232 - 1236).

POST CERTIFICATION CHANGES TO THE COMMISSION DECISION: AMENDMENTS, INSIGNIFICANT PROJECT CHANGES

The project owner must petition the Energy Commission, pursuant to Title 20, California Code of Regulations, section 1769, to 1) delete or change a condition of certification; 2) modify the project design or operational requirements; and 3) transfer ownership or operational control of the facility.

A petition is required for **amendments** and for **insignificant project changes**. In all cases, the petition or letter requesting a change should be submitted to the Commission's Docket in accordance with Title 20, California Code of Regulations, section 1209. The criteria that determine which type of change process applies are explained below.

EXECUTIVE ORDER

Executive Order D-25-01 issued by the Governor of the State of California, which accelerates processing of certain project modifications, will be applied to all qualifying project modifications requested until December 31, 2001.

AMENDMENT

A proposed project modification will be processed as an amendment if it involves a change to a condition of certification, an ownership or operator change, or a potential significant environmental impact.

INSIGNIFICANT PROJECT CHANGE

The proposed modification will be processed as an insignificant project change if it does not require changing the language in a condition of certification, have a potential for significant environmental impact, and cause the project to violate laws, ordinances, regulations or standards.

VERIFICATION CHANGE

Changes to condition verifications require CPM approval and may require either a written or oral request by the project owner. The CPM will provide written authorization of verification changes.

TECHNICAL AREA CONDITIONS OF CERTIFICATION

The following standard technical conditions of certification will apply, only if checked off, on a case-by-case basis, to peaker power plant applications for the emergency permitting process. Additional conditions may be required if identified during the certification process, on a case-by-case basis.

NOISE

NOISE-1 The project permitted under this emergency process shall be required to comply with applicable community noise standards.

Verification: Within 30 days of the project first achieving a sustained output of 80 percent or greater of rated capacity, the project owner shall conduct a 25-hour community noise survey, utilizing the same monitoring sites employed in the pre-project ambient noise survey as a minimum. No single piece of equipment shall be allowed to stand out as a source of noise that draws legitimate complaints. Steam relief valves shall be adequately muffled to preclude noise that draws legitimate complaints. If the results from the survey indicate that the project noise levels at the closest sensitive receptor are in excess of XX.X dBA Leq, additional mitigation measures shall be implemented to reduce noise to a level of compliance with this limit.

NOISE-2 Prior to the start of rough grading, the project owner shall notify all residents within one mile of the site of the start of construction and will provide a complaint resolution process.

Verification: The project owner shall provide the CPM with a statement, attesting that the above notification has been performed.

NOISE-3 Throughout the construction and operation of the project, the project owner shall document, investigate, evaluate, and attempt to resolve all project related noise complaints.

Verification: Within 30 days of receiving a noise complaint, the project owner shall file a copy of the Noise Complaint Resolution Form, or similar instrument approved by the CPM, with the County Environmental Health Department, and with the CPM, documenting the resolution of the complaint. If mitigation is required to resolve a complaint, and the complaint is not resolved within a 30-day period, the project owner shall submit an updated Noise Complaint Resolution Form when the mitigation is finally implemented.

NOISE-4 Night construction activities may be authorized by the CPM if they are consistent with local noise ordinances. Night construction, or specific night construction activities may be disallowed by the CPM if it results in significant impact to the surrounding community.

Verification: Noise monitoring and surveys may be conducted if complaints are reported by residence in the surrounding area of the project site.

HAZARDOUS MATERIALS MANAGEMENT

HAZ-1 The project owner shall not use any hazardous material in reportable quantities unless approved by the CPM.

Verification: The project owner shall provide in the Annual Compliance Report a list of hazardous materials used at the facility in reportable quantities.

HAZ-2 The project owner shall submit both the Business Plan and Risk Management Plan to the CPM for review and comment, and shall also submit these plans and/or procedures to the County Fire Department for approval.

Verification: 30 days (or a CPM-approved alternative timeframe) prior to the initial delivery of any hazardous materials in reportable quantities to the facility, the project owner shall submit the Business and Risk Management Plan to the CPM for review and comment. At the same time, the project owner shall submit these plans to the County Fire Department for approval. The project owner shall also submit evidence to the CPM that the County Fire Department approved of these plans, when available.

WASTE

WASTE-1 The project owner shall obtain a hazardous waste generator identification number from the Department of Toxic Substances Control prior to producing any hazardous waste.

Verification: The project owner shall keep its copy of the identification number on file at the project site.

WASTE-2 The project owner shall have an environmental professional available for consultation during soil excavation and grading activities. The environmental professional shall be given full authority to oversee any earth moving activities that have the potential to disturb contaminated soil. The environmental professional shall meet the qualifications of such as defined by the American Society for Testing and Materials designation E 1527-97 Standard Practice for Phase I Environmental Site Assessments.

Verification: If potentially contaminated soil is unearthed during excavation at either the proposed site or linear facilities, the environmental professional shall inspect the site, determine the need for sampling to confirm the nature and extent of contamination, and make a recommended course of action. The environmental professional shall have the authority to suspend construction activity at that location. If, in the opinion of the environmental professional, remediation is to be required, the project owner shall consult

with the CPM and a decision will be made by the CPM within 24 hours as to how to proceed.

BIOLOGICAL

BIO-1 The project permitted under this emergency process will avoid all impacts to legally protected species and their habitat on site, adjacent to the site and along the right of way for linear facilities.

BIO-2 The project permitted under this emergency process will avoid all impacts to designated critical habitat (wetlands, vernal pools, riparian habitat, preserves) on site or adjacent to the site.

BIO-3 The project permitted under this emergency process will avoid all impacts to locally designated sensitive species and protected areas.

BIO-4 The project permitted under this emergency process will reduce risk of large bird electrocution by electric transmission lines and any interconnection between structures, substations and transmission lines by using construction methods identified in "Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996" (APLIC 1996).

BIO-5 The project biologist, a person knowledgeable of the local/regional biological resources, and CPM will have access to the site and linear rights-of-way at any time prior to and during construction and have the authority to halt construction in an area necessary to protect a sensitive biological resource at any time.

BIO-6 Upon decommissioning the site, the biological resource values will be reestablished at preconstruction levels or better.

Verification: If the Designated Biologist halts construction, the action will be reported immediately to the CPM along with the recommended implementation actions to resolve the situation or decide that additional consultation is needed. Throughout construction, the project owner shall report on items one through six above if identified resources are found or impacted.

LAND USE

LAND-1 The project permitted under this emergency process will conform to all applicable local, state and federal land use requirements, including general plan policies, zoning regulations, local development standards, easement requirements, encroachment permits, truck and vehicle circulation plan requirements, Federal Aviation Administration

approval, and the Federal Emergency Management Agency National Flood Insurance Program.

Verification: Prior to start of construction, the project owner will submit to the CPM documentation verifying compliance with the above referenced land use requirements.

TRAFFIC AND TRANSPORTATION

TRANS-1 The project permitted under this emergency process shall comply with Caltrans and City/County limitations on vehicle sizes and weights. In addition, the project owner or its contractor shall obtain necessary transportation permits from Caltrans and all relevant jurisdictions for roadway use.

Verification: The project owner shall keep copies of any oversize and overweight transportation permits received at the project site.

TRANS-2 The project permitted under this emergency process shall comply with Caltrans and City/County limitations for encroachment into public rights-of-way and shall obtain necessary encroachment permits from Caltrans and all relevant jurisdictions.

Verification: The project owner shall keep copies of any encroachment permits received at the project site.

TRANS-3 The project permitted under this emergency process shall ensure that permits and/or licenses are secured from the California Highway Patrol and Caltrans for the transport of hazardous materials.

Verification: The project owner shall keep copies of all permits/licenses acquired by the project owner and/or subcontractors concerning the transport of hazardous substances at the project site.

TRANS-4 Following completion of construction of the power plant and all related facilities, the project owner shall return all roadways to original or as near original condition as possible.

SOIL & WATER RESOURCE

SOIL&WATER-1 Prior to ground disturbance, the project owner shall obtain CPM approval of a Storm Water Pollution Prevention Plan (SWPPP) as required under the General Storm Water Construction Activity Permit for the project.

Verification: Prior to ground disturbance, the project owner will submit a copy of the Storm Water Pollution Prevention Plan for the project to the CPM.

SOIL&WATER-2 Prior to ground disturbance, the project owner shall obtain CPM approval of an Erosion Prevention and Sedimentation Control Plan.

Verification: The Erosion Control and Storm Water Management Plan for the project shall be submitted to the CPM prior to ground disturbance.

SOIL&WATER-3 Prior to site mobilization, the project owner shall submit to the CPM, a copy of a valid water service agreement for water supplies for the project from an authorized water purveyor, or a copy of a valid well permit for the project from the appropriate licensing agency.

SOIL& WATER-4 Prior to ground disturbance, the project owner shall submit to the CPM a copy of a valid permit or agreement from the appropriate approving agency for wastewater discharge.

CULTURAL

CUL-1 The project certified under this emergency process shall not cause any significant impact to cultural resources on the power plant site or linear rights of way.

CUL-2 The project has been determined to have the potential to adversely affect significant cultural resources and the project owner shall ensure the completion of the following actions/activities:

1. Provide a cultural specialist who will have access to the site and linear rights-of-way at any time prior to and during ground disturbance.
1. The cultural specialist will provide training to appropriate construction personnel at the site, will install avoidance measures (as necessary), and will be present during appropriate ground disturbing activities. The cultural specialist has the authority to halt construction at a location if a significant cultural resource is found. If resources are discovered and the cultural specialist is not present, the project owner will halt construction at that location and will contact the specialist immediately. The specialist will consult with the CPM and a decision will be made by the CPM within 24-hours as to how to proceed.
2. The project owner shall allow time for the cultural specialist to recover significant resource finds, and pay all fees necessary to curate recovered significant resources.

Verification: Throughout construction, the project owner shall inform the CPM concerning any substantive activity related to items 1 through 4 above. Should curation be necessary, the project owner shall inform the CPM as to how and where the resources were curated.

VISUAL

VIS-1 Project structures treated during manufacture and all structures treated in the field, that are visible to the public, shall be painted in a neutral color consistent with the surrounding environment.

Verification: Prior to painting exposed services, the project owner shall identify the selected color for CPM approval.

VIS-2 The project owner shall design and install all lighting such that light bulbs and reflectors are not visible from public viewing areas and illumination of the vicinity and the nighttime sky is minimized. Lighting must also be installed consistent with any local requirements.

VIS-3 The project owner shall prepare and submit to the local planning department for review and comment, and to the CPM for review and approval a landscaping plan which provides for any or all of the following, as appropriate, to screen the project from view: berms, vegetation and trees, and slats in fencing.

Verification: Within 30 days of certification, the project owner shall submit the landscaping plan to the local planning department and the CPM.

FACILITY DESIGN

GEN-1 The project owner shall design, construct and inspect the project in accordance with the 1998 California Building Code (CBC) and all other applicable LORS in effect at the time initial design plans are submitted to the CBO for review and approval.

Verification: Within 30 days (or a lesser number of days mutually agreed to by the project owner and the CBO) after receipt of the Certificate of Occupancy, the project owner shall submit to the CPM a statement of verification, signed by the responsible design engineer, attesting that all designs, construction, installation and inspection requirements of the applicable LORS and the Energy Commission's Decision have been met. The project owner shall provide the CPM a copy of the Certificate of Occupancy within 30 days of receipt from the CBO [1998 CBC, Section 109 – Certificate of Occupancy.] The project owner shall keep copies of plan checks and CBO inspection approvals at the project site.

PALEONTOLOGICAL

PALEO-1 The project certified under this emergency process shall not cause any significant impact to paleontological resources on the power plant site or linear rights of way.

PALEO-2 The project has been determined to have the potential to adversely affect significant paleontological resources and the project owner shall ensure the completion of the following actions/activities:

1. Provide a paleontological specialist who will have access to the site and linear rights-of-way at any time prior to and during ground disturbance.
3. The paleontological specialist will provide training to appropriate construction personnel at the site, will install avoidance measures (as necessary), and will be present during appropriate ground disturbing activities. The cultural specialist has the authority to halt construction at a location if a significant paleontological resource is found. If resources are discovered and the specialist is not present, the project owner will halt construction at that location and will contact the specialist immediately. The specialist will consult with the CPM and a decision will be made by the CPM within 24-hours as to how to proceed.
4. The project owner shall allow time for the paleontological specialist to protect significant resource finds, and pay all fees necessary to protect any significant resources.

Verification: Throughout construction, the project owner shall inform the CPM concerning any substantive activity related to items 1 through 4 above.

TRANSMISSION SYSTEM ENGINEERING, SAFETY AND RELIABILITY

TSE-1 The project owner shall ensure that the design, construction and operation of the proposed transmission facilities will conform to requirements listed below:

The power plant switchyard, outlet line and termination shall meet or exceed the electrical, mechanical, civil and structural requirements of CPUC General Order 95, CPUC Rule 21, Title 8, CCR, Articles 35, 36 and 37 of the, "High Voltage Electric Safety Orders", Title 8 CCR, Sections 2700-2974, CPUC Decision 93-11-013, Federal Communications Commission Part 15, Public Resources Code 4292-4296, and National Electric Code (NEC).

Verification: Within 15 days after cessation of construction the project owner shall provide a statement to the CPM from the registered engineer in responsible charge (signed and sealed) that the switchyard and transmission facilities conform to the above listed requirements.

WORKER AND FIRE SAFETY

WORKER SAFETY-1 The project owner must comply with all requirements in Title 8 of the California Code of Regulations, beginning with Part 450 (8 CCR Part 450 et seq).

Verification: The project owner shall submit to the CPM a letter attesting to compliance with the above and shall report any violations to the CPM.

City of Chula Vista Resolution No. 1699

RESOLUTION NO. 1699

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF CHULA VISTA ADOPTING MITIGATED NEGATIVE DECLARATION IS-00-39 AND APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT TO ALLOW THE SITING OF A PEAK LOAD POWER PLANT AT 3497 MAIN STREET.

A. RECITALS

1. Project Site

WHEREAS, the parcel which is the subject matter of this resolution is represented in Exhibit A attached hereto and incorporated herein by this reference, and for the purpose of general description is located at 3497 Main Street ("Project Site"); and,

2. Project Applicant

WHEREAS, on March 21, 2000 a duly verified application for a special use permit to allow the siting of a Peak Load Power Plant (SUPS-00-08) ("Project") was filed with the City of Chula Vista Community Development Department by PG&E Dispersed Generation, LLC ("Applicant"); and

3. Project Description; Application for Special Use Permit

WHEREAS, Applicant requests permission to site the Project at the Project Site. The Project consists of one natural gas twinnak combustion turbine, gas compressor, electrical generator, and associated equipment within the perimeter of the property fenced and screened by landscaping; and,

4. Planning Commission Record on Application

WHEREAS, the Planning Commission held a duly noticed Public Hearing to consider the Project application on August 9, 2000, and after considering all evidence and testimony presented recommended by a vote of 6-0 that the Redevelopment Agency approve a Special Use Permit for the Project; and,

5. Redevelopment Agency Record of Application

WHEREAS, a duly noticed public hearing on the Project was initially opened on August 22, 2000, continued to September 12, 2000, and held on September 26, 2000 before the Redevelopment Agency of the City of Chula Vista to receive the recommendation of the Planning Commission and to hear public testimony with regard to same.

NOW, THEREFORE, BE IT RESOLVED that the Redevelopment Agency does hereby find, order, determine and resolve as follows:

B. PLANNING COMMISSION RECORD

The proceedings and all evidence on the Project introduced before the Planning Commission at their public hearing on this project held on August 9, 2000 and the minutes and resolution resulting therefrom, are hereby incorporated into the record of this proceeding.

C. ENVIRONMENTAL DETERMINATION

The Planning and Environmental Manager prepared an Initial Study, and determined that project specific mitigation measures are required to reduce potential environmental impacts identified in the initial study to a less than significant level. A Mitigated Negative Declaration was prepared; and,

D. CERTIFICATION OF COMPLIANCE WITH CEQA

The Redevelopment Agency finds that the Mitigated Negative Declaration has been prepared in accordance with the requirements of the California Environmental Quality Act, and the Environmental Review Procedures of the City of Chula Vista.

The Redevelopment Agency finds that the Mitigated Negative Declaration reflects the independent judgement of the Redevelopment Agency of the City of Chula Vista and hereby adopts the Mitigated Negative Declaration.

E. SPECIAL USE PERMIT FINDINGS

The Redevelopment Agency of the City of Chula Vista does hereby make the findings required by the Agency's Rules and Regulations for the issuance of special use permits, as herein below set forth, and sets forth, thereunder, the evidentiary basis that permits the stated finding to be made.

1. **That the proposed use at the location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.**

The proposed peak load power plant is desirable because it enhances the reliability of the electricity distribution system in the region by more efficiently using the existing energy resources to generate electricity during peak demand periods.

2. **That such use will not under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.**

An environmental analysis was performed for the project site in accordance with the provisions of the California Environmental Quality Act. As a result of that environmental analysis specific mitigation conditions have been placed upon the project. Said conditions are included in the Mitigated Negative Declaration for the project and are incorporated herein as conditions of approval for SUPS-00-08.

3. **That the proposed use will comply with the regulations and conditions specified in the code for such use.**

Special Use Permit SUPS-00-08 requires the permittee to comply with all the applicable regulations and standards specified in the Municipal Code for such use.

The conditioning of SUPS-00-08 is approximately proportional both in nature and in extent to the impact created by the proposed development in that the conditions imposed are directly related to and are of a nature and scope related to the size and impact of the project.

4. That the granting of this special use permit will not adversely affect the general plan of the City or the adopted plan of any government agency.

The granting of SUPS-00-08 will not adversely affect the Chula Vista General Plan in that said project is in conformance with the City Zoning Ordinance and General Plan. The site is in an area that is characterized by commercial and industrial uses, and as previously noted in Finding 2, has been conditioned to mitigate potential impacts.

F. CONDITIONS OF APPROVAL

The Redevelopment Agency hereby grants Special Use Permit SUPS-00-08 subject to the following conditions whereby the applicant and/or property owner shall:

Planning and Building Department Conditions:

1. Prior to the issuance of building permits, the project landscape and irrigation plan shall be reviewed and approved by the City Landscape Planner.
2. Prior to the issuance of a Certificate of Occupancy for the new structures, all landscaping shall be installed in accordance with the approved landscaping plan.
3. Any designated parking areas on the site shall provide a landscape treatment of 10% minimum per the Chula Vista Landscape Manual. The site plan does not at this time identify any designated parking areas. However, if in the future parking areas are created then this will be a requirement.
4. If at any point in the future the designated easement becomes a designated street and right-of-way, then additional landscaping may be required within the right-of-way.
5. Opportunities for vine pocket plantings should be looked at by the Landscape Architect. There should be isolated pockets of vine plantings along the proposed fencing.
6. Provide some vine plantings along the proposed fencing.
7. A water management plan shall be provided at the building permit stage, per requirements of the City Landscape Manual.
8. At the building permit stage, a complete planting and irrigation plan per the City Landscape Manual will be required.
9. Construct the project as submitted, unless otherwise modified herein. The Power Plant shall operate a maximum of sixteen (16) hours per day and a maximum of forty-eight hundred (4,800) hours per year.

10. All mitigation measures identified within the Mitigated Negative Declaration for the project shall be complied with to the satisfaction of the Director of Planning and Building in perpetuity.

Public Works Department Conditions

11. Developer shall dedicate land for street right-of-way, including turnaround, sufficient to construct half of an industrial street in accordance with the City's adopted street standards at the time of dedication. Such dedication shall be made upon Developer or Developer's successor in interest acquiring a fee interest in the Property and the request of the Agency.
12. The following fees will be required if appropriate or if applicable, including but not limited to those fees identified below, based on the final building plans submitted.
 - a. Sewer capacity and connection fees.
 - b. Development Impact Fees
 - c. Traffic Signal Fees
13. The Engineering Division will require the applicant to obtain a construction permit to perform any work in the City's right of way or easements.
14. A grading permit will be required prior to issuance of any building permit. Specific means of handling storm runoff will be addressed at the time of the grading plan review. All runoff will be subject to NPDES regulations. Hazardous materials will not be allowed to drain onto surrounding property.
15. Existing public sewer lines shall remain protected and driveable access shall be provided to all sewer manholes located on the property. Sewer easements shall be granted for all existing sewer lines on the property not within an existing easement.

Fire Department Conditions

16. A 20' minimum width Fire access is required with an all weather driving surface.

Applicant/operator shall and does hereby agree to indemnify, protect, defend and hold harmless City and Redevelopment Agency, its Council members, officers, employees, agents, and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein, and b) Applicant's installation and operation of the facility permitted hereby. Applicant/operator shall acknowledge their agreement to this provision by executing a copy of this Special Use Permit where indicated below. Applicant/operator's compliance with this provision is an express condition of this Special Use Permit and this provision shall be binding on any and all of Applicant's/operator's successors and assigns.

G. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The applicant shall execute this document by signing the lines provided below, said execution indicating that the applicant has read, understood and agreed to the conditions contained herein.

Upon execution, this document shall be recorded with the County Recorder's Office of the County of San Diego, and a signed, stamped copy returned to the Community Development Department. Failure to sign this document within ten days of approval shall indicate the applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval. Said document will also be on file in the Community Development Department's files.

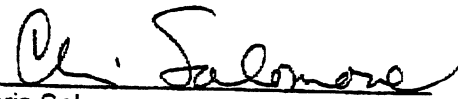


Signature of Representative of PG&E

10/18/00

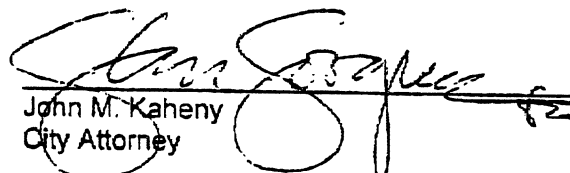
Date

Presented by:



Chris Salomone
Community Development Director

Approved as to form by:



John M. Kaheny
City Attorney

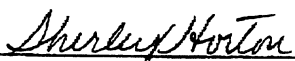
PASSED, APPROVED and ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF CHULA VISTA, CALIFORNIA this 26th day of September, 2000 by the following vote:


AYES: Members Davis, Moot, Salas, and Chair/Mayor Horton

NOES: None

ABSENT: Padilla

ABSTENTIONS: None

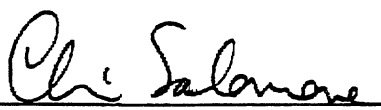

Shirley Horton
Chairman

ATTEST: 
Chris Salomone
Executive Secretary

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss:
CITY OF CHULA VISTA)

I, Chris Salomone, Executive Secretary to the Redevelopment Agency of the City of Chula Vista, California DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of Resolution No. 1699 and that the same has not been amended or repealed.

Dated: September 27, 2000


Chris Salomone
Executive Secretary